

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

UNITED STATES OF AMERICA, *ex rel.*
DEBORAH RADKE, AS RELATOR
UNDER THE FALSE CLAIMS ACT ,

Relator/Plaintiff,

v.

SINHA CLINIC, CORP., BABER AND
ASSOCIATES, LLC, SHOBA SINHA, M.D.,
SABRINA YOUNG, PH.D., PSY.D.,

Defendants.

Case No. 12-cv-06238

Honorable Sharon Johnson
Coleman

INITIAL JOINT STATUS REPORT

Pursuant to the Court's standing order, the parties,¹ by and through their undersigned counsel, respectfully submit this Joint Status Report in advance of the Status Hearing set for March 2, 2015 at 9:00 a.m.:

A. Nature of the Case

1. Attorneys of record, and lead trial counsel, for each party.

Relator/Plaintiffs:

Michael I. Leonard (lead trial counsel)
Ethan E. White
LEONARD LAW OFFICES
203 North LaSalle, Suite 1620
Chicago, Illinois 60606
(312) 380-6559

**Defendants Sinha Clinic Corp., Baber
and Associates, LLC, and Shoba Sinha,
M.D.:**

David J. Tecson (lead trial counsel)
Ryan A. Haas
Chuhak & Tecson, P.C.
30 South Wacker Drive, Suite 2600
Chicago, IL 60606
(312) 444-9300

¹ Defendant Sabrina Young has appeared *pro se* and does not appear to have a valid e-mail or fax address on file. As such, this status report does not reflect the input of Defendant Young, but will be sent to her mailing address upon filing.

**Defendant Sabrina Young, Ph.D.,
Psy.D.:**

Sabrina Young (*pro se*)
114 Mallery Avenue
Elgin, IL 60123
847-532-5353

2. Nature of the case:

Relator's Claim: Relator alleges that Defendants employed a fraudulent scheme to improperly and illegally bill Medicare and private insurers for uncovered, duplicative and unnecessary procedures, including claims that were the product of fraudulent self-referral; claims for psychotherapy services and testing that were never actually provided to patients; claims for services that were not covered at all by Medicare and/or private insurance; and claims for procedures that were performed by unsupervised and unlicensed interns and office staff under Defendants' NPI numbers. Relator alleges that the various schemes resulted in false records being created and false claims submitted to Medicare, all in violation of the False Claims Act, among other statutory violations.

Defenses:

Defendants contend that the Relator/Plaintiff has misunderstood the nature of the Stark law and regulations associated with referrals. Defendant Riaz Baber, M.D. S.C. ("Baber") did not refer patients to the Sinha Clinic S.C. ("Sinha") for designated health services as defined by the Stark law and regulations. Accordingly, no violation of Stark occurred. Defendants also assert that the remainder of the Complaint arises out of the Relator/Plaintiff's opinions regarding the coding for valid psychiatric treatment and testing provided to Sinha patients.

3. Principal legal and factual issues:

- The nature of Defendants' Medicare billing activities and the lawfulness of those activities under the applicable Medicare regulations.
 - The nature of Defendants' record keeping for Medicare billing activities and the lawfulness of that record keeping under the applicable Medicare regulations.
 - The lawfulness of Defendants' referral activities under the applicable Medicare regulations.
4. **Relief sought:** Relator seeks the maximum amount of the Relator's share, pursuant to the False Claims Act, attorneys' fees, an Order that Defendants cease the practices as alleged in the Complaint, civil damages in an amount equal to three times the damages the United States and the State of Illinois have sustained, and a civil penalty against Defendants of \$11,000 for each violation of the federal FCA and the Illinois Insurance Fraud Act;

5. **General Status of the Case:** All defendants, except for Defendant Young, filed Motions to Dismiss various portions of the Complaint on February 20, 2015.
- B. Pending Motions:** All defendants, except for Defendant Young, filed Motions to Dismiss various portions of the Complaint on February 20, 2015. No briefing schedule has been set. Defendant Young has filed an application for additional time to answer or otherwise plead and an application for leave to proceed *in forma pauperis*.
- C. Status of Discovery:** Discovery has not yet commenced in this matter. Relator suggests a fact discovery cut-off of six months; Defendants suggest a fact discovery cut-off of nine months. The parties can complete Rule 26(a)(1) disclosures by March 27, 2015.
- It is Defendants' position that discovery in this action must be conducted with caution in order to comply with the Illinois Mental Health Confidentiality Act as well as HIPAA. Accordingly, the parties anticipate that certain data must be encrypted, and the parties may be required to file certain documents under seal.
- Relator does not believe discovery in this action requires any special considerations outside of those governed by the N.D. Illinois Model HIPAA and Confidentiality Orders. Plaintiff does not believe any encryption of data will be necessary.
- D. Trial:** Relator has requested a jury trial. The parties estimate a trial would last approximately two weeks.
- E. Consent to Proceed Before a Magistrate Judge:** The parties do not unanimously consent to proceed before the Magistrate Judge.
- F. Status of Settlement Discussions:** The parties have not had any settlement discussions.

On behalf of Relator,

By: /s/ Michael I. Leonard
Michael I. Leonard
Ethan E. White
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On behalf of Defendants Sinha Clinic Corp., Baber and Associates, LLC, and Shoba Sinha, M.D.:

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